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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Peter Cooper

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EXAMINER

MISLEH, JUSTIN P

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,870

Applicant(s)

COOPER, PETER

Examiner

Justin P. Misleh

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 - 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 - 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 15, 2005 has been entered.

Response to Arguments

2. Applicant's arguments filed December 15, 2005 have been fully considered but they are not persuasive; Applicant's arguments with respect to Claims 19, 26, 34, and 38 – 40 have been considered but are moot in view of the new grounds of rejection.

3. Applicant argues, "Parulski does not teach or suggest that a single composite image quality indicator is generated based on data associated with a plurality of image parameters nor that the single composite image quality indicator represents the plurality of image parameters."

4. The Examiner respectfully disagrees with Applicant's position. Parulski indicates in column 18 (lines 37 – 59) and in column 29 (lines 49 – 55), the image quality indicator is based upon an analysis of a combination of exposure and editorial characteristics. Furthermore, Parulski discloses, in column 17 (lines 17 – 33), that the quality indicator is at least based upon brightness and color information within the images and as stated in column 17 (lines 50 – 55) that the quality indicator is based upon the darkness of the image. Finally, Parulski also

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discloses, as shown in Table 1 and as stated in column 18 (lines 60 – 67), a look-up table (136) associates parameters determined from image analysis with a plurality of image quality indicators. Nonetheless, Parulski additionally teaches, in figures 31a – 31c, at Step 214 that a revision set is generated and at Steps 228 – 232 display all the revisions.

5. Therefore, in direct contrast with Applicant's position, Parulski indeed discloses a single composite image quality indicator representing a plurality of image quality parameters based on an image.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. **Claim 40** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant is reminded that "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. In this instance, since "the computer program" is not employed as a computer component it becomes "nonfunctional descriptive material" and merely claiming nonfunctional descriptive material on an electromagnetic carrier signal does not make it statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 19 – 23 and 26 – 39** are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski.

10. For **Claim 19**, Parulski discloses, as shown in figures 3, 4, 25, 31a – 38, and 49 and as stated in column 12 (line 63) – column 13 (line 20), column 17 (line 19) – column 20 (line 60), column 28 (line 5) – column 29 (line 55), a digital camera comprising:

a single composite image quality indicator (“revision suggestions” and/or “output quality warnings”; also see exemplary figures 32 – 38) representing a plurality of image quality parameters based on a image wherein the composite image quality indicator is generated based on data associated with the plurality of image quality parameters; and

a display (26 – again see figures 32 – 38) for displaying the image together with the single composite image quality indicator.

In summary, Parulski indicates in column 18 (lines 37 – 59) and in column 29 (lines 49 – 55), the image quality indicator is based upon an analysis of a combination of exposure and editorial characteristics. Furthermore, Parulski discloses, in column 17 (lines 17 – 33), that the quality indicator is at least based upon brightness and color information within the images and as stated in column 17 (lines 50 – 55) that the quality indicator is based upon the darkness of the image. Finally, Parulski also discloses, as shown in Table 1 and as stated in column 18 (lines 60 – 67), a look-up table (136) associates parameters determined from image analysis with a

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plurality of image quality indicators. Nonetheless, Parulski additionally teaches, in figures 31a – 31c, at Step 214 that a revision set is generated and at Steps 228 – 232 display all the revisions.

Therefore, Parulski discloses a single composite image quality indicator representing a plurality of image quality parameters based on an image.

11. As for **Claim 20**, Parulski discloses the image quality indicator indicates whether the image is optimal based on the plurality of image parameters (see column 18, lines 37 – 59, and in column 29, lines 49 – 55).

12. As for **Claim 21**, Parulski discloses wherein the plurality of image parameters includes a light exposure (see column 17, lines 17 – 33).

13. As for **Claim 22**, Parulski discloses wherein the plurality of image parameters includes a white balance (see column 17, lines 17 – 33).

14. As for **Claim 23**, Parulski discloses wherein the plurality of parameters includes a dark reference (see column 17, lines 17 – 33 and 50 – 55).

15. For **Claim 26**, Parulski discloses, as shown in figures 3, 4, 25, 31a – 38, and 49 and as stated in column 12 (line 63) – column 13 (line 20), column 17 (line 19) – column 20 (line 60), column 28 (line 5) – column 29 (line 55), a method of operating a digital camera comprising providing a user interface (122 -- see figure 3) of the camera with a single composite image quality indicator (“revision suggestions” and/or “output quality warnings”; also see exemplary figures 32 – 38) representing a plurality of image quality parameters based on a image wherein the composite image quality indicator is generated based on data associated with the plurality of image quality parameters.

In summary, Parulski indicates in column 18 (lines 37 – 59) and in column 29 (lines 49 – 55), the image quality indicator is based upon an analysis of a combination of exposure and editorial characteristics. Furthermore, Parulski discloses, in column 17 (lines 17 – 33), that the quality indicator is at least based upon brightness and color information within the images and as stated in column 17 (lines 50 – 55) that the quality indicator is based upon the darkness of the image. Finally, Parulski also discloses, as shown in Table 1 and as stated in column 18 (lines 60 – 67), a look-up table (136) associates parameters determined from image analysis with a plurality of image quality indicators. Nonetheless, Parulski additionally teaches, in figures 31a – 31c, at Step 214 that a revision set is generated and at Steps 228 – 232 display all the revisions. Therefore, Parulski discloses a single composite image quality indicator representing a plurality of image quality parameters based on an image.

16. As for **Claim 27**, Parulski discloses, as shown in figures 31a – 31c, the step of capturing the image (Step 202).

17. As for **Claim 28**, Parulski discloses, as shown in figures 32 – 37, the step of displaying the image together with the image quality indicator.

18. As for **Claim 29**, Parulski discloses, as shown in figures 31a – 31c, the step of executing one or more algorithms for determining the quality of the image.

19. As for **Claim 30**, Parulski discloses executing at least one algorithm for determining light exposure (see column 17, lines 17 – 33).

20. As for **Claim 31**, Parulski discloses executing at least one algorithm for determining white balance (see column 17, lines 17 – 33).

21. As for **Claim 32**, Parulski discloses executing at least one algorithm for determining a dark reference (see column 17, lines 17 – 33 and 50 – 55).

22. As for **Claim 33**, Parulski discloses, as shown in figure 31c, determining whether one the one or more algorithms has been found to be stable.

In other words, the Examiner considers Steps 224 – 232 of figure 31c as corresponding to finding a stable solution for the image since during those steps all possible revisions are displayed regarding image quality.

23. As for **Claim 35**, Parulski discloses, as shown in figures 32 – 37, wherein the image quality indicator is located within the image.

24. For **Claim 34**, Parulski discloses, as shown in figure 4 and as stated in columns 9 (lines 23 – 27) and 11 (lines 4 – 50), a computer program stored on a computer readable medium (54) for capturing an image on a digital camera, said computer program, when executed causing the digital camera (figure 4) to perform the above method (Claim 26).

25. For **Claim 36**, Parulski discloses, as shown in figures 3, 4, 25, 31a – 38, and 49 and as stated in column 12 (line 63) – column 13 (line 20), column 17 (line 19) – column 20 (line 60), column 28 (line 5) – column 29 (line 55), a method of operating a digital camera comprising providing a user interface (122 -- see figure 3) of the camera with a single composite image quality indicator (“revision suggestions” and/or “output quality warnings”; also see exemplary figures 32 – 38) representing a plurality of image quality parameters based on a image wherein the composite image quality indicator is generated based on data associated with the plurality of image quality parameters; and

determining whether one the one or more algorithms has been found to be stable (see figure 31c).

In other words, the Examiner considers Steps 224 – 232 of figure 31c as corresponding to finding a stable solution for the image since during those steps all possible revisions are displayed regarding image quality.

In summary, Parulski indicates in column 18 (lines 37 – 59) and in column 29 (lines 49 – 55), the image quality indicator is based upon an analysis of a combination of exposure and editorial characteristics. Furthermore, Parulski discloses, in column 17 (lines 17 – 33), that the quality indicator is at least based upon brightness and color information within the images and as stated in column 17 (lines 50 – 55) that the quality indicator is based upon the darkness of the image. Finally, Parulski also discloses, as shown in Table 1 and as stated in column 18 (lines 60 – 67), a look-up table (136) associates parameters determined from image analysis with a plurality of image quality indicators. Nonetheless, Parulski additionally teaches, in figures 31a – 31c, at Step 214 that a revision set is generated and at Steps 228 – 232 display all the revisions.

Therefore, Parulski discloses a single composite image quality indicator representing a plurality of image quality parameters based on an image.

26. As for **Claim 37**, Parulski discloses, as shown in figures 31a – 31c, the step of executing one or more algorithms for determining the quality of the image.

27. As for **Claim 38**, Parulski discloses, as shown in figure 31c, determining whether one the one or more algorithms has been found to be stable.

In other words, the Examiner considers Steps 224 – 232 of figure 31c as corresponding to finding a stable solution for the image since during those steps all possible revisions are

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displayed regarding image quality. Since Parulski generates and displays all possible revisions in an iterative process, the Examiner considers the method of figures 31a- 31c as determining if one or more algorithms converge.

28. As for **Claim 39**, Parulski discloses executing at least one algorithm for determining light exposure (see column 17, lines 17 – 33); and Parulski also discloses executing at least one algorithm for determining white balance (see column 17, lines 17 – 33); and finally Parulski discloses executing at least one algorithm for determining a dark reference (see column 17, lines 17 – 33 and 50 – 55).

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. **Claims 24 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski.

31. As for **Claim 24 and 25**, Parulski teaches a camera capable of displaying an image quality warning; however, Parulski does not expressly disclose that the camera is housed in a mobile communications device.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of incorporating digital cameras into other devices, such as mobile telephone handsets are well known and expected in the art. At the time the invention was made, it would

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have been obvious to one with ordinary skill in the art to have incorporated digital cameras into other devices, such as mobile telephone handsets for the advantage of transmitting images for printing or permanent storage.

Conclusion

32. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David L Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM

March 6, 2006



DAVID OMETZ
SUPERVISORY PATENT EXAMINER